

Decision of the Tax Appeal Board - Date: May 1, 1972

Docket No. 498

George C. White and Jane S. White

Personal Income - Assessment - Limitation of Time - Jurisdiction of Tax Appeal Board.

A petition by taxpayers in response to a final notice, received in 1971, requiring payment of 1958 tax plus penalties, is dismissed without prejudice as not timely filed. Testimony that the Division of Revenue mailed an assessment in 1961, within the three-year period of limitation is accepted; the law does not require that notice of assessment must actually be received by the taxpayer. No limitation on time for collection applied prior to January 1, 1971. Although the taxpayers' contention that they filed a return for 1958 casts doubt on the amount in dispute, the circumstances the Board does not have jurisdiction to decide the issue.

Decision of the Tax Appeal Board - Date: June 5, 1972

Docket Nos. 464, 474, 475

Cantera Construction (Docket No. 464)

James Julian, Inc. (Docket Nos. 474 & 475)

Contractor's License Tax - Basis of Tax - Exclusion from Gross Receipts -
Retroactivity.

The exclusion of certain sums paid to subcontractors from "gross receipts" as defined in the contractor's license tax law is retroactive. This exclusion, added by an amendment effective July 1, 1969, applies to contracts entered into prior to that date.

Decision of the Tax Appeal Board - Date: June 5, 1972

Docket No. 449

Frank E. and Elizabeth J. Giovannozzi

Personal Income - Refund Claim - Limitation of Time.

A claim for refund will not be considered when it was filed after the final date provided by the statute of limitations. An exception cannot be made on the grounds that the taxpayer relied on verbal assurances by employees of the former State Tax Department.

Decision of the Tax Appeal Board - Date: April 10, 1972

Docket No. 448

Alden V. Keene

Personal Income - Deduction of Loss by Guarantor of Defaulted Loan -
Prior Law.

A taxpayer is allowed a deduction, under Sec. 1118 (11) Title 30, of prior law, for amounts paid as guarantor of a bank loan on which the borrower is rejected. Although the taxpayer received no compensation for putting up collateral, he believed his wife's business would benefit from the continued services of the borrower's wife, a valued employee. There was no original intent to pay off the loan for the borrower, who was expected to repay the bank. The taxpayer failed to file a claim in the borrower's bankruptcy proceedings only because he did not realize that he had an enforceable claim.

Decision of the Tax Appeal Board - Date: May 17, 1972

Docket No. 447

E. I. duPont deNemours and Co.

Corporate Income - Neighborhood Assistance Act Tax Credit - Prior
Approve of Contribution.

Credit will not be granted for contributions made under the Neighborhood Assistance Tax Act which had not been approved by the authorized boards, although an application for approval had been made. The Director of Revenue could not allow the credit, since the Director's discretionary authority applies only to the amount of credit granted.

Decision of the Tax Appeal Board - Date: June 21, 1972

Docket No. 442

Milfred S. Tunnell, Eolyne K. Tunnell,
James M. Tunnell and Robert W. Tunnell,
t/a Pot-Nets Mobile Home Park

License, Sales, Miscellaneous - Trailer Park License Fee -
Applicability to Mobile Home Facility.

The trailer park license fee (30 Del. C., Sec. 2301) is not applicable
to mobile home facilities.

Decision of the Tax Appeal Board - Date: January 12, 1972

Docket Nos. 422, 423, 424

Leslye M. Heisler, Trustee

Carla M. Heisler, U/A 4/19/68 (Docket No. 422)

Albert Heisler, Trustee

Susan Jo Heisler, Trust U/A 1/16/67 (Docket No. 423)

Albert Heisler, Trustee

Henrietta Heisler, Trust U/A 1/16/67 (Docket No. 424)

Personal Income - Corporation Merger - Exchange of Stock for
Debentures - Recognition of Gain - Prior Law.

Any gain realized on the exchange of common stock of a corporation for debentures of another in connection with a merger is not recognized for purposes of the Delaware personal income tax in effect before January 1, 1971. The prior state law (Sec. 1146 (a) (3) used language identical to Section 112 (b) (3) I. R. C. 1939, which considered an exchange of stock for securities (debentures) to be nontaxable.

Decision of the Tax Appeal Board - Date: December 8, 1971

Docket Nos. 431, 432, 433, 434

Wilmington Medical Center

License, Sales, Miscellaneous - Occupational License - Exemptions - Hospitals.

A hospital is exempt from occupational licenses required for the operation of a parking lot and scientific laboratory. The hospital is not engaged in the business of running a parking lot or a scientific laboratory for profit. The lot is run for the use of employees, out-patients, and visitors of the hospital and the services of the laboratory are a significant part of the operation of the hospital (and is not available to the general public).